

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0233

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1033 - 01/18/2005

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to establish certain provisions with regard to the past tax
2 liability of sellers who agree to collect sales and use tax under the Streamlined Sales and
3 Use Tax Agreement.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. No seller who registers to pay or to collect and remit applicable South Dakota
6 sales or use tax in accordance with the terms of the Streamlined Sales and Use Tax Agreement
7 is liable for any uncollected or unpaid sales or use tax, penalty or interest, unless the seller was
8 registered in this state during the twelve-month period preceding the date the state is found in
9 compliance with the Streamlined Sales and Use Tax Agreement.

10 Section 2. The provisions of section 1 of this Act preclude assessment for any uncollected
11 or unpaid sales or use tax, penalty, or interest for sales made during the period the seller was not
12 registered in the state, if registration occurs within twelve months of the date the state is found
13 in compliance with the Streamlined Sales and Use Tax Agreement.

14 Section 3. The provisions of section 1 of this Act do not apply to any seller with respect to
15 any matter or matters for which the seller received notice of the commencement of an audit and



1 the audit is not yet finally resolved, including any related administrative and judicial processes.
2 The provisions of section 1 of this Act do not apply to any sales or use taxes already paid or
3 remitted to the state or to taxes collected by the seller.

4 Section 4. Absent the seller's fraud or intentional misrepresentation of a material fact, the
5 provisions of section 1 of this Act are fully effective, if the seller remains registered and
6 continues payment or collection and remittance of applicable sales or use taxes for a period of
7 at least thirty-six months from the date of the seller's original registration. The state's statute of
8 limitations applicable to asserting a tax liability is tolled during this thirty-six month period.

9 Section 5. The provisions of section 1 of this Act are applicable only to sales or use taxes
10 due from a seller in its capacity as a seller and not to sales or use taxes due from a seller in its
11 capacity as a buyer.